

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ENCARNACION SALAS, IV,
Petitioner,

v.

ROB JACKSON,
Respondent.

CASE NO. 2:23-CV-1278-RAJ-DWC

ORDER TO SUBSTITUTE AND FOR
SERVICE AND ANSWER, § 2254
PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently incarcerated at the Washington State Penitentiary (“WSP”) and is subject to the Court’s Prisoner E-Filing Initiative pursuant to General Order 06-16. The Court, having reviewed petitioner’s federal habeas petition, hereby finds and **ORDERS** as follows:

(1) Petitioner named the State of Washington as Respondent. Dkt. 4. The proper respondent to a habeas petition is the “person who has custody over [the petitioner].” 28 U.S.C. § 2242; see also § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). The Superintendent of WSP, where Petitioner is currently confined, is Rob Jackson. Accordingly, the Clerk of Court is directed to substitute Rob

1 Jackson as the Respondent in this action. The Clerk of Court is also directed to update the case
2 title.

3 (2) The Clerk shall arrange for service, by e-mail upon respondent and upon the
4 Attorney General of the State of Washington, of copies of: the petition, any other documents
5 filed in support of the petition, the Notice of Consent, and this Order. The Clerk shall also direct
6 a copy of this Order, the Notice of Consent, and of the Court's *pro se* instruction sheet to
7 petitioner.

8 (3) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an
9 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
10 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
11 exhausted available state remedies and whether an evidentiary hearing is necessary.

12 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
13 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
14 the Court and serve a copy of the answer on petitioner.

15 (4) The answer will be treated in accordance with LCR 7. Accordingly, on the face
16 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
17 Petitioner may file and serve a response not later than the Monday immediately preceding the
18 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
19 not later than the Friday designated for consideration of the matter.

20 (5) Filing by Parties, Generally

21 All attorneys admitted to practice before this Court are required to file documents
22 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.
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1 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom
2 the document is directed.

3 Any document filed with the Court must be accompanied by proof that it has been served
4 upon all parties that have entered a notice of appearance in the underlying matter. Petitioner
5 shall indicate the date the document is submitted for e-filing as the date of service.

6 (6) Motions

7 Any request for court action shall be set forth in a motion, properly filed and served.
8 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
9 part of the motion itself and not in a separate document. The motion shall include in its caption
10 (immediately below the title of the motion) a designation of the date the motion is to be noted for
11 consideration on the Court's motion calendar.

12 (7) Direct Communications with District Judge or Magistrate Judge

13 No direct communication is to take place with the District Judge or Magistrate Judge with
14 regard to this case. All relevant information and papers are to be directed to the Clerk.

15 Dated this 20th day of October, 2023.

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18 David W. Christel
19 Chief United States Magistrate Judge
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